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MT LEGISLATIVE HISTORY

Year 1987, Ch. 590
Bill # S 190 Original bill & hist. ✓C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	MAR 9 87	✓C	Hearing Date(s)	JAN 28 '87	✓C
	MAR 10 '87	✓C			C
	APR 8 '87	C			C
		C			C
Date Out	APR 8 '87	C	Date Out	JAN 28	✓C

Did this bill originate in an interim committee? ___Yes ✓No
Committee _____
Minutes
Report

2/10	3RD READING PASSED	43	7
	TRANSMITTED TO HOUSE		
2/18	REFERRED TO JUDICIARY		
3/09	HEARING		
3/19	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED	79	11
3/30	3RD READING CONCURRED	89	7
	RETURNED TO SENATE WITH AMENDMENTS		
4/02	2ND READING AMENDMENTS CONCURRED	49	0
4/03	3RD READING AMENDMENTS CONCURRED	49	0
4/08	SIGNED BY PRESIDENT		
4/09	SIGNED BY SPEAKER		
4/09	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 462 EFFECTIVE DATE: 10/01/87		

SB 190 INTRODUCED BY LYBECK, BECK, DRISCOLL, ET AL.
REQUIRING MORTGAGOR ACKNOWLEDGE MORTGAGED PROPERTY NOT EXEMPT AS HOMESTEAD

1/21	INTRODUCED		
1/21	REFERRED TO JUDICIARY		
1/28	HEARING		
1/29	COMMITTEE REPORT--BILL PASSED		
2/02	2ND READING PASSED	29	13
2/04	3RD READING PASSED	39	11
	TRANSMITTED TO HOUSE		
2/11	REFERRED TO JUDICIARY		
3/09	HEARING		
4/08	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
4/10	2ND READING CONCURRED AS AMENDED	93	3
4/13	3RD READING CONCURRED	92	2
	RETURNED TO SENATE WITH AMENDMENTS		
4/14	RULES SUSPENDED TO ALLOW RECEIPT OF BILL AFTER DEADLINE	43	3
4/16	2ND READING AMENDMENTS CONCURRED	50	0
4/17	3RD READING AMENDMENTS CONCURRED	44	5
4/21	SIGNED BY PRESIDENT		
4/21	SIGNED BY SPEAKER		
4/21	TRANSMITTED TO GOVERNOR		
4/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 590 EFFECTIVE DATE: 10/01/87		

SB 191 INTRODUCED BY BOYLAN
EXCLUDE PERSONS RECEIVING PENSIONS FROM MEMBERSHIP IN TITLE 19 PENSION PLANS

1/21	INTRODUCED		
1/21	REFERRED TO STATE ADMINISTRATION		
1/21	FISCAL NOTE REQUESTED		
1/26	HEARING		
1/28	FISCAL NOTE RECEIVED		
1/28	ADVERSE COMMITTEE REPORT ADOPTED	45	2

SB 192 INTRODUCED BY BOYLAN
REDUCE PROPERTY VALUATION TO PRICE OFFERED FOR SALE AND EQUALIZE ACCORDINGLY

Senate BILL NO. 190

INTRODUCED BY Lybeck Beck Hamill Lynch-Swanson Trivell Stratford Ellison

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A MORTGAGOR TO ACKNOWLEDGE THAT MORTGAGED REAL PROPERTY IS NOT EXEMPT FROM EXECUTION AS A HOMESTEAD; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Homestead subject to execution for mortgage -- separate writing required. (1) If a mortgagor mortgages property that otherwise would qualify as the homestead under Title 70, chapter 32, he shall execute and sign a document, separate from the mortgage agreement, acknowledging that the real property is not exempt from execution as the homestead because under 70-32-202 it is subject to execution or forced sale to satisfy a judgment obtained on a debt secured by a mortgage on the premises.

(2) The mortgagee shall retain a copy of the document provided for in subsection (1) until the mortgage is paid or otherwise satisfied or discharged.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 71, chapter 1, part 2, and the provisions of Title 71, chapter 1, part 2, apply to section 1.

Section 3. Applicability. This act applies to mortgages of real property created after the effective date of this act.

-End-

INTRODUCED BILL
SB-190

APPROVED BY COMMITTEE
ON JUDICIARY

Senate BILL NO. 190

INTRODUCED BY Lybeck Beck Thomas Lopp-Strauss
Pinsoneault Stratford Elliott

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A MORTGAGOR TO ACKNOWLEDGE THAT MORTGAGED REAL PROPERTY IS NOT EXEMPT FROM EXECUTION AS A HOMESTEAD; AND PROVIDING AN APPLICABILITY DATE."

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Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 71, chapter 1, part 2, and the provisions of Title 71, chapter 1, part 2, apply to section 1.

Section 3. Applicability. This act applies to mortgages of real property created after the effective date of this act.

-End-

SECOND READING
SB-190

SENATE BILL NO. 190

INTRODUCED BY Lybeck Beck Lind Lopp Stratford Russell Ellerd

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A MORTGAGOR TO ACKNOWLEDGE THAT MORTGAGED REAL PROPERTY IS NOT EXEMPT FROM EXECUTION AS A HOMESTEAD; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Homestead subject to execution for mortgage -- separate writing required. (1) If a mortgagor mortgages property that otherwise would qualify as the homestead under Title 70, chapter 32, he shall execute and sign a document, separate from the mortgage agreement, acknowledging that the real property is not exempt from execution as the homestead because under 70-32-202 it is subject to execution or forced sale to satisfy a judgment obtained on a debt secured by a mortgage on the premises.

(2) The mortgagee shall retain a copy of the document provided for in subsection (1) until the mortgage is paid or otherwise satisfied or discharged.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 71, chapter 1, part 2, and the provisions of Title 71, chapter 1, part 2, apply to section 1.

Section 3. Applicability. This act applies to mortgages of real property created after the effective date of this act.

-End-

THIRD READING
SB-190

SENATE BILL NO. 190

INTRODUCED BY LYBECK, BECK, DRISCOLL, RAPP-SVRCEK, RUSSELL, IVERSON, STRATFORD, ELLISON

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A ~~MORTGAGOR~~ BORROWER TO ACKNOWLEDGE THAT ~~MORTGAGED~~ CERTAIN ENCUMBERED REAL PROPERTY IS NOT EXEMPT FROM EXECUTION AS A HOMESTEAD; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Homestead subject to execution for ~~mortgage ----separate-writing-required.--(1)-If-a-mortgagor-mortgages property-that-otherwise-would-qualify-as-the-homestead-under Title-70,-chapter-32,-he-shall-execute-and-sign-a--document, separate-from-the-mortgage-agreement,-acknowledging-that-the real--property-is-not-exempt-from-execution-as-the-homestead because-under-70-32-202-it-is-subject-to-execution-or-forced sale-to-satisfy-a-judgment-obtained-on-a-debt-secured--by--a mortgage--on--the--premises.~~ CERTAIN JUDGMENTS -- SEPARATE ACKNOWLEDGMENT REQUIRED. (1) IF A BORROWER BORROWING MONEY FROM A ~~BANK--AS--DEFINED--IN-32-1-102,-A-BUILDING-AND-LOAN ASSOCIATION-AS-DEFINED-IN-32-2-101,-OR--A--CREDIT--UNION--AS DEFINED---IN---32-3-102,~~ REGULATED LENDER AS DEFINED IN 31-1-111, A MUTUAL OR STOCK INSURANCE COMPANY REGULATED BY ANY STATE, OR A FARM CREDIT SYSTEM LENDER ENCUMBERS REAL PROPERTY THAT OTHERWISE WOULD QUALIFY AS A HOMESTEAD UNDER TITLE 70, CHAPTER 32, THE FINANCIAL INSTITUTION SHALL REQUIRE THE BORROWER TO SIGN A WRITTEN STATEMENT ACKNOWLEDGING THAT THE REAL PROPERTY IS NOT EXEMPT FROM EXECUTION AS A HOMESTEAD BECAUSE UNDER 70-32-202 IT IS SUBJECT TO EXECUTION OR FORCED SALE TO SATISFY A JUDGMENT OBTAINED ON A DEBT SECURED BY A MORTGAGE OR OTHER ENCUMBRANCE ON THE PREMISES. THE WRITTEN ACKNOWLEDGMENT MAY BE IN A DOCUMENT SEPARATE FROM, OR MAY BE INCLUDED IN, THE LOAN AGREEMENT OR LOAN DOCUMENTS AND MUST BE PRINTED IN CAPITAL LETTERS OF NOT LESS THAN 10-POINT BOLDFACED TYPE AND SIGNED SEPARATELY BY THE BORROWER.

(2) The ~~mortgagee~~ FINANCIAL INSTITUTION shall retain a copy of the ~~document~~ ACKNOWLEDGMENT provided for in subsection (1) until the mortgage OR OTHER ENCUMBRANCE is paid or otherwise satisfied or discharged UNLESS THE ACKNOWLEDGMENT IS OF RECORD IN THE OFFICE OF THE CLERK AND RECORDER.

~~Section-2.--Codification--instruction.---Section--1--is intended--to--be--codified--as-an-integral-part-of-Title-71, chapter-1,-part-2,-and-the-provisions-of-Title--71,--chapter 1,-part-2,-apply-to-section-1.~~

Section 2. Applicability. This act applies to mortgages AND OTHER ENCUMBRANCES of real property created after the effective date of this act.

-End-

CHAIRMAN--SEN. JOE MAZUREK
NORMAL SCHEDULE==> SITE: ROOM 325 DAYS: MON THRU FRI TIME: 10:00 A.M.
SECRETARY-MARY HUBER

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
SB0173	1/21	2/03		DO PASS		2/5
BROWN, ROBERT J.			REVISE SPOUSAL PRIVILEGE			
SB0181	1/21	1/29		PASS AS AMENDED		2/3
VAN VALKENBURG, FRED			SUSPENDING DRIVER'S LICENSE FOR FAILURE TO APPEAR OR TO PAY FINE			
SB0188	2/05			PASS AS AMENDED		2/18
WALKER, MIKE			DISCLOSURE OF ELECTRONIC FUNDS TRANSACTION PURSUANT TO SUBPOENA			
SB0189	1/21	1/28		PASS AS AMENDED		2/3
VAN VALKENBURG, FRED			DISCLOSURE OF IDENTITY OF YOUTH POSSESSING INTOXICATING SUBSTANCE		Tabled 1/30	
SB0190	1/21	1/28		DO PASS		1/28
LYBECK, RAY			REQUIRING MORTGAGOR ACKNOWLEDGE MORTGAGED PROPERTY NOT EXEMPT AS HOMESTEAD			
SB0209	1/24	2/11				—
HALLIGAN, MIKE			CHILD ABUSE/NEGLECT -- SRS PERMANENT CUSTODY TO ALLOW ADOPTION			
SB0214	1/24	2/04		DO PASS		2/4
MAZUREK, JOSEPH P.			REQUIRING SRS CONSENT BEFORE RELINQUISHING PARENTAL RIGHTS			
SB0220	1/24	2/04		PASS AS AMENDED		2/5
YELLOWTAIL JR, WILLIAM P.			REVISE DISTRICT COURT FEES FOR INCIDENTAL CHARGES			
SB0223	1/27	2/06		PASS AS AMENDED		2/20
ECK, DOROTHY			ESTABLISH PRIVILEGE FROM EXAMINATION FOR MEDIATORS		Tabled 6/3	
SB0225	1/27	2/06		PASS AS AMENDED		2/9
HALLIGAN, MIKE			ADOPT THE UNIFORM PREMARITAL AGREEMENT ACT			
SB0226	1/27	2/17		DO PASS		2/19

names of youth that were busted at a party, is just in Missoula County, because he said in his county they take a list of names up to the school after the bust. Mr. Demmons said it is a state law not to disclose names of youth that are caught in a beer bust and he said it very easy for someone to sue over this because of the confidentiality clause. Senator Beck asked if this information will be given to the public or just the school. Mr. Demmons said it will be given to the school only.

Senator Crippen asked if drugs were included in this bill. Mr. Demmons said drugs were not included. Senator Crippen asked if all schools have programs for kids with drugs abuses. Mr. Demmons said the programs around the state are called "Insight" and these programs would benefit from the bill because it would give them a list of kids that might need help.

Senator Mazurek asked what the "Insight" program would do for a kid with a drug abuse problem. Mr. Demmons responded the majority of the kids that go into "Insight" lies about their problem because the program never caught one the kids at a beer bust. He said the students then have one of the "Insight" counselors sign a release form and the student doesn't have to attend any more. Mr. Demmons explained that he asks students to attend the program, but most just get a release form and don't attend the program.

Senator Blaylock echoed his statement about how a school will use the names to dismiss students from extra school activities if the tournaments have come and gone or the school doesn't have a very good team to begin with. Mr. Demmons felt some of these star athletes are getting away with murder.

Senator Crippen felt the star athlete should get the same punishment for drinking while on training as the the third trupet in the band gets.

Senator Brown wanted to insert drugs into the bill.

Senator Van Valkenburg closed.

CONSIDERATION OF SB 190: Senator Ray Lybeck, Senate District #4, introduced SB 190, which establishes a new requirement that a person mortgaging property that could qualify for a homestead exemption must sign an acknowledgement by separate document that the property is not exempt from execution as a homestead. He said the bill is merely intended to be a notification to mortgagors of the status of current law.

PROPONENTS: Robbie Green, Tongue River Stage of Miles City, said SB 190 would insure a borrower that he would be aware that land could be part of the homestead right that was morgaged.

OPPONENTS: Bob Pyfer, Montana Credit Union League, said the bill is just another piece of paper to deal with and another expense.

DISCUSSION ON SB 190: Senator Crippen didn't think it was another form to fill out because it keeps a mortgagor up to date on his mortgaged land and what a change in the law could do to that mortgage.

Meg Nelson, NPRC, said the bill is trying to get a form that will say that under the law a person might lose the homestead because he mortgaged it. She said some borrowers don't even know they morgaged off the homestead right to a bank. She felt these borrowers have to be informed of what they are doing in writing.

Senator Lybeck closed.

The committee adjourned the hearings and proceeded with executive action.

ACTION ON SB 96: SB 96 was referred back to the committee. Senator Mazurek read the standing committee report and felt the committee had decided in their last executive action on SB 96 to strike "felony" from the bill and let the judge decide if the abuse was a felony. Senator Yellowtail felt the word "felony" should be left in the bill because many of the senior citizens wanted it left in the bill. Senator Halligan explained a second offense might be a minute incident. Senator Galt asked Elmer Hausken, Retired Persons Association, if his intent in this bill was to have the second offense a felony conviction. Mr. Hausken said it was the intent to have it left as a felony. Valencia presented amendments to the committee (see Exhibit 1). Senator Blaylock moved the amendments. The motion carried with Senators Galt and Yellowtail voting no. Senator Blaylock moved the bill DO PASS AS AMENDED. The motion carried.

ACTION ON SB 104: Valencial Lane explained some background information on the bill and stated that Mike McGrath, Lewis and Clark County Attorney, said the bill would not hurt anything. Senator Pinsoneault moved the bill DO PASS. Senator Blaylock said the merchants might go over board with this bill. The motion carried.

ACTION ON SB 189: Senator Brown felt drugs should be included in this bill. Senator Mazurek wanted to see just the school officials get the names, but not have the incident be put on the kid's record. Senator Blaylock felt that it was not the school's business to know what a student does after school hours off school property. Valencia asked if the committee wanted to include not only the use of drugs but the selling of it. Senator Mazurek said the selling of a drug is in another statute. Valencia presented amendments (see Exhibit 2). Senator Halligan moved the amendments. The motion carried. Senator Halligan moved the bill DO PASS AS AMENDED. Senator Brown asked if places like West Point could

get a school record that might show an arrest or charge for possession of alcohol. Senator Mazurek said if the committee allows school administrators to know about a beer bust, then it does go on the student's record. The committee decided to wait on action.

ACTION ON SB 190: Senator Mazurek asked if a person doesn't fill out this form does it make his homestead right exempt or not. Senator Bishop said there will be law suits if the bank didn't give proper disclosures of current mortgaged accounts. Senator Pinsoneault moved the bill DO NOT PASS. Senator Crippen made a substitute motion to DO PASS the bill. Senator Yellowtail wondered if the bill could be amended to remove the separate document part. Senator Mazurek thought the separate document part should remain in the bill. Senators Mazurek, Pinsoneault and Halligan voted no; the motion carried.

The committee adjourned at 12:00 p.m.

Chairman

ROLL CALL

Judiciary COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date Jan. 28th

NAME	PRESENT	ABSENT	EXCUSED
Senator Joe Mazurek, Chairman	X		
Senator Bruce Crippen, Vice Chairman	X		
Senator Tom Beck	X		
Senator Al Bishop	X		
Senator Chet Blaylock	X		
Senator Bob Brown	X		-
Senator Jack Galt	X		
Senator Mike Halligan	X		
Senator Dick Pinsoneault	X		
Senator Bill Yellowtail	X		

Each day attach to minutes.

DATE Jan. 28th

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
[illegible]	South Coast Pet.	SC	X	
[illegible]	ACLP	NC	X	
Monte Mebeth	NPRC - M-9A	190	X	
John C Beck	NPRC. BMRS.	190	X	
Bolly Ser	Mont Credit Union Lobbyist	190		X

(Please leave prepared statement with Secretary)

NAME: ROBBIE GREEN DATE: 1/28/97

ADDRESS: TONGUE RIVER STAGE, MILES CITY

PHONE: 921 5511

REPRESENTING WHOM? NPRC

APPEARING ON WHICH PROPOSAL: HOME SEND EXEMPTION SB 140

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

January 23 19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration SENATE BILL No. 100

first reading copy (white color)

Requiring mortgagor acknowledge mortgaged property not exempt as homestead

Respectfully report as follows: That SENATE BILL No. 100

DO PASS

DO NOT PASS

Chairman.

Form CS-32
Rev. 1985

STATUS SHEET

50th LEGISLATIVE SESSION

JUDICIARY COMMITTEE

SENATE BILL NUMBER	ENTERED COM. DATE	DATE CONSIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CONCURRED IN DATE	BE NOT CONCURRED IN DATE	BE CONCURRED IN AMENDED DATE	BE NOT CONCURRED IN AMENDED DATE
181		3/13/87								3/24/87	
189		3/9/87								3/19/87	
190		3/9/87	tabled 3/10/87							reconsidered 4/8/87	
195		3/9/87						3/10/87			
214		3/11/87						3/13/87			
223		3/18/87						3/23/87			
225		3/6/87						3/10/87			
226		3/16/87								3/23/87	
229	3/3/87	3/12/87	tabled 3/23/87					reconsidered 3/26/87			
241		3/16/87								3/23/87	
249		3/10/87						3/13/87			
254		3/10/87	tabled 3/11/87								
256		3/4/87	3/4/87					3/4/87			
257		3/16/87									

There were no questions from the committee.

Senator Weeding closed the hearing on Senate Bill No. 119.

SENATOR BILL NO. 190: Senator Lybeck, District No. 4, stated SB 190 dealt with the exemption of the homestead. The reason for the bill grew out of the agricultural crisis. It carries the requirement for a separate document to be presented and signed at the time of the closing of the loan with the mortgagor and the mortgagee, as to whether the homestead is actually in the loan and covered by the mortgage.

PROPONENTS:

GEORGE T. BENNETT, representing the Montana Bankers Association, submitted proposed amendments. (Exhibit A).

CHIP ERDMANN, representing the Montana League of Savings and Loans, supported the bill with proposed amendments presented by Mr. Bennett.

MICHAEL KORN, representing the North Plains Resource Council, stated they supported SB 190 because it strikes the nature of tradition. The bill clarifies that in the course of a mortgage agreement the homestead may be, in certain circumstances, included within the context of a sale.

BOB HELDING, representing the Montana Association of Realtors, supported the bill with the proposed amendments.

BOB PYFER, representing the Montana Credit Union League, also supported the bill with the amendments. He stated the amendments require a separate signing of the section.

There were no further proponents of the bill and no opponents.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 190:

Rep. Rapp-Svrcek asked Senator Lybeck how he felt about the proposed amendments and he responded if they clarify the bill, he could go along with them.

Rep. Addy asked Mr. Bennett to read section 1 with the amendment in. Mr. Bennett explained the amendment would break section 1 into 1(a) and 1(b). Rep. Addy asked Senator Lybeck what function the separate document served. He answered that if the mortgagee takes the time to make the borrower aware of the fact, at the time the mortgage is signed, that it does or does not include the actual homestead, this makes it clear enough. If the amendment

clarifies it enough, then Senator Lybeck stated he had no objection to the amendment.

Rep. Mercer stated he just was not sure how the bill was going to work and he had serious concerns regarding it. He asked Mr. Bennett if it should not be the duty of the bank or lending institution to be aware of whether or not the homestead information should be provided. He said the bill puts the burden on the borrower to sign the contract. Rep. Mercer asked Mr. Bennett what happens if the borrower does not sign the document and Mr. Bennett stated that if the mortgagee does not obtain the signature of the mortgager, the mortgagee would not be able to enforce the mortgage against the homestead.

Senator Lybeck closed the hearing on SB 190.

SENATE BILL NO. 189: Senator Van Valkenburg, District No. 30, stated SB 189 was introduced at the request of the chief probation officer in his district. The purpose of the introduction of the bill is to insure that youth court individuals could tell school officials about potential substance abuse problems that kids have so that intervention programs can be of assistance to them. Another purpose of the bill was to make sure kids knew there were consequences associated with their illegal actions. The Senate Judiciary Committee amended the bill on lines 5 and 6 so that protection was put into it in regard to disclosure outside the school setting. Senator Van Valkenburg urged the concept be kept in the bill. He said there needed to be a determination or an adjudication of guilt before information could be disclosed and school officials need to know they can disclose information for internal purposes within the school. He pointed out that disclosure was not to become part of the youth's permanent records.

PROPONENTS:

CITIZENS FOR CHEMICAL AWARENESS STEERING COMMITTEE, presented written testimony. (Exhibit A). An amendment was proposed to further clarify the bill. They requested the language, "may be disclosed by law enforcement officials", be amended to include youth court probation officers and/or justices of the peace.

JON RUSH, President of the Helena PTA, submitted written testimony. (Exhibit B). She stated the Helena PTA voted for the passage of SB 189. They believed the enforcement of school rules that deal with extra curricular activities and students becoming intoxicated, need to be enforced and one agency not being allowed to cooperate with another is incorrect.

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 9, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)		✓	✓
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)		✓	✓
KELLY ADDY (D)	✓		
DAVE BROWN (D)		✓	✓
EARL LORY (R)	✓		

CS-30

EXHIBIT A
DATE 3-9-87
WB SB # 190

WITNESS STATEMENT

NAME George T. Bennett BILL NO. S.B. 190

ADDRESS 111No. Main, PO Box 1705, Helena 59624 DATE 3/9/87

WHOM DO YOU REPRESENT? Montana Bankers Association

SUPPORT X w/amendment OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The Montana Bankers Association will support the bill with the attached amendments.

SENATE BILL 190

(Proposed Amendments)

Amendment to Senate Bill 190 (Third Reading) in order to allow the optional use of mortgage forms which incorporate the acknowledgement that real property is not exempt from execution as homestead where separately signed and identified.

Amend Senate Bill 190 (Third Reading) page, 1, line 11 following (1) by adding "(a)".

Continue and amend page 1, line 13, following "he shall" by striking the balance of the line.

Further amend page 1, line 14 by striking the language: "a document, separate from the mortgage agreement,"

Further amend page 1, line 15, by striking the word "acknowledging" and inserting the following:

"an acknowledgement of non-exemption stating"

Further amend page 1, following the material on line 18, by inserting the following:

"(b) The acknowledgement of non-exemption may be:

(i) a document separate from the mortgage document; or

(ii) a section incorporated in the mortgage document if it bears a separate bold face heading entitled 'Acknowledgement Of Non-exemption' and the mortgagor signs the acknowledgement in addition to signing the mortgage document as such."

VISITORS' REGISTER

JUDICIARY COMMITTEE

SENATE BILL NO. 190 DATE March 9, 1987

SPONSOR

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Gregory T. Bennett	Mont. Bkrs Assn	X with amendment	
Bob Helding	Mt. Assoc. of Realtors		✓
Gladys Bagnet	[redacted]	✓	
Chip Erdmann	Mt League of Savings & Loans	X with Amendment	
Mildred Korn	No. Plains Res. Ct.	X	
Bob Ryser	Mont. Credit Unions League	X with amendment	
Dana Arandrigta	Fort Benton High School	✓	
Cory Remniger	Fort Benton High School	✓	
Robbie Evans	Fort Benton High School	✓	
Mike Gratland	Fort Benton High	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 10, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on March 10, 1987, at 8:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Grady who was absent.

EXECUTIVE SESSION:

SENATE BILL NO. 24: Rep. Brown moved that SB 24, BE NOT CONCURRED IN. Question was called and a voice vote was taken. The motion CARRIED 10-5. SB 25, BE NOT CONCURRED IN.

SENATE BILL NO. 25: Rep. Brown moved to reconsider action on SB 25. Rep. Gould stated certain people he has spoken to feel this is a good bill. Rep. Brown pointed out that his problem with the bill is that we have always maintained the distinction between what is done within the family and what is done outside the family. This is a protection for the bartender but he said that he just does not see the need for passing this bill. Rep. Keller stated that children start drinking too young and this is just another way to start children off drinking. This bill might discourage parents from encouraging drinking at a young age. Rep. Bulger agreed with Rep. Brown. He said there was not any testimony insisting there was an active problem. Rep. Daily acknowledged there is just too much legislation and here is a case where a problem has been created by such a bill. Question was called and a voice vote was taken on the motion to reconsider. The motion CARRIED 10-7. Rep. Brown moved that SB 25, BE NOT CONCURRED IN. Question was called and a voice vote was taken. The motion CARRIED 9-7. SB 25, BE NOT CONCURRED IN.

SENATE BILL NO. 119: Rep. Brown moved that SB 119 BE CONCURRED IN. Question was called and a voice vote was taken. The motion CARRIED unanimously. SB 119, BE CONCURRED IN.

SENATE BILL NO. 190: Rep. Mercer stated there are serious concerns regarding this bill and it needs a new approach. Rep. Addy moved to TABLE the bill. Question was called and a voice vote was taken. The motion CARRIED 16-1, with Rep. Miles dissenting. SB 190, TABLED.

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 16, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)		✓	
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

CS-30

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

April 8, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on April 8, 1987, at 8:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present with the exception of Reps. Grady, Hannah, and Strizich who were excused and Rep. Cobb who was absent.

EXECUTIVE SESSION:

SENATE BILL NO 48: Rep. Mercer moved that SB 48 be taken off the table. Rep. Miles opposed the bill and the motion because she felt that the bill should have been put back into the original subcommittee. Question was called and voice vote was taken. The motion CARRIED 10-3. Discussion continued on the amendments. Rep. Miles requested that Mr. MacMaster explain Section 7 in regards to the first set of amendments had Section 7 written differently than this proposed set of amendments. Mr. MacMaster explained this section by stating that section 7 was deleted and the wording was put into amendment number 4. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Gould moved that SB 48 BE CONCURRED IN AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED 12-1 with Rep. Brown dissenting. SB 48 BE CONCURRED IN AS AMENDED.

SENATE BILL NO. 190: Rep. Gould moved that SB 190 be taken off the table. Question was called and a voice vote was taken. The motion CARRIED 13-1 with Rep. Brown dissenting. Rep. Mercer moved the amendments. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Rapp-Svrcek moved that SB 190 BE CONCURRED IN AS AMENDED. The motion CARRIED unanimously. SB 190 BE CONCURRED IN AS AMENDED.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 9:40 a.m.

Earl Lory

EARL LORY, Chairman

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date April 8, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)		✓	
ED GRADY (R)			✓
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)			✓
TOM HANNAH (R)			✓
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

COMMITTEE OF THE WHOLE AMENDMENT

HOUSE

4-10-87
DATE
10:58
TIME

MR. CHAIRMAN: I MOVE TO AMEND SB 190

3rd reading copy (blue Color) as follows:

PASSED

AMENDING THE HOUSE JUDICIARY STANDING COMMITTEE REPORT DATED 4-8-87, AMENDING SENATE BILL 190.

1) Instruction No.3, lines 4 through 6.
Strike: "bank as defined in 32-1-102, a building and loan association as defined in 32-2-101, or a credit union as defined in 32-3-102"
Insert: "regulated lender as defined in 31-1-111, a mutual or stock insurance company regulated by any state, or a farm credit system lender"

ADOPT
REJECT

4101058S.CW

L. Rapp-Svrcek

Rep. Rapp-Svrcek

STANDING COMMITTEE REPORT

HOUSE

APRIL 8, 1987 19

Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 190

☐ do pass ☒ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Chairman

1. Title, line 4.
Strike: "MORTGAGOR"
Insert: "BORROWER"

2. Title, line 5.
Strike: "MORTGAGED"
Insert: "CERTAIN ENCUMBERED"

3. Page 1, lines 11 through 18.
Strike: lines 11 through 18 in their entirety
Insert: "certain judgments -- separate acknowledgment required.
(1) If a borrower borrowing money from a bank as defined in 32-1-102, a building and loan association as defined in 32-2-101, or a credit union as defined in 32-3-102, encumbers real property that otherwise would qualify as a homestead under Title 70, chapter 32, the financial institution shall require the borrower to sign a written statement acknowledging that the real property is not exempt from execution as a homestead because under 70-32-202 it is subject to execution or forced sale to satisfy a judgment obtained on a debt secured by a mortgage or other encumbrance on the premises. The written acknowledgement may be in a document separate from, or may be included in, the loan agreement or loan documents and must be printed in capital letters of not less than 10-point boldfaced type and signed separately by the borrower."

4. Page 1, line 19.
Strike: "mortgagee"
Insert: "financial institution"
Strike: "document"
Insert: "acknowledgement"

5. Page 1, line 20.
Following: "mortgage"

SW

THIRD reading copy (BLUE color) REP. RAPP-SVRCEK WILL CARRY THE BILL!

Insert: "or other encumbrance"

6. Page 1, line 21.
Following: "discharged"
Insert: ", unless the acknowledgement is of record in the office of the clerk and recorder"

7. Page 1, lines 22 through 25.
Strike: section 2 of the bill in its entirety

Renumber: subsequent section

8. Page 2, line 2.
Following: "mortgages"
Insert: "and other encumbrances"

SW